



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

Mail Code 5104

VIA CERTIFIED MAIL#

RETURN RECEIPT REQUESTED

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Notice of Potential Non-Compliance with EPA Risk Management Program Regulations

Notification Code:

Dear Sir or Madam,

The purpose of this letter is to determine whether you are subject to the U.S. Environmental Protection Agency (EPA) Risk Management Program regulations. Section 112(r) of the Clean Air Act, 42 USC § 7412(r), directed EPA to publish regulations for chemical accident prevention at facilities using substances that pose the greatest risk of harm from accidental releases. These regulations are codified at Title 40, Part 68 of the Code of Federal Regulations (40 CFR Part 68, Chemical Accident Prevention Provisions, or the EPA Risk Management Program). Under 40 CFR Part 68, the owner or operator of any stationary source that has more than a threshold quantity of a substance listed at section 68.130 (*i.e.*, a "regulated substance") within a process must comply with the requirements of Part 68. These include performing a hazard assessment, implementing accident prevention and emergency response measures, and submitting a Risk Management Plan (RMP) to the EPA.

Based on information available to EPA, further review of your facility is needed, and we write to ask whether your facility may have one or more regulated substances in a process above the applicable threshold quantity as specified in section 68.130. To date, EPA does not appear to have received an RMP submission from your facility. If a facility subject to 40 CFR Part 68 does not comply with its requirements, including the requirement to submit an RMP to EPA, the owner or operator of that facility may be subject to enforcement action. Accordingly, and in light of the importance of this issue, we request your response to this letter within 30 days.

If you have determined that your facility is not subject to 40 CFR Part 68, please advise EPA why you are not required to comply with those regulations. We expect this would usually be based on one of the following reasons:

- The stationary source does not possess any regulated substance in a quantity exceeding a specified threshold quantity within a process.
- All regulated substances at the source are subject to oversight under Department of Transportation regulations at 49 CFR Parts 192, 193, or 195, or are otherwise in transportation or storage incident to transportation.
- The stationary source has already complied with 40 CFR Part 68 and submitted an RMP to EPA. If this is the case, in your reply please provide your EPA Facility Identification Number.
- The stationary source possesses only listed flammable substances used on site as fuel or held for retail sale as fuel.
- The stationary source is a farm, and the only regulated substance held above a threshold quantity is anhydrous ammonia held for use as an agricultural nutrient at the source.
- Regulated substances held at the source are exempt from coverage under part 68 because they qualify for one or more of the exemptions listed at section 68.115(b) (e.g., all substances are present in mixtures below 1% concentration, or are naturally occurring hydrocarbon mixtures prior to entry into a natural gas processing plant or petroleum refining process unit, etc.).

If no exception applies and your facility is required to prepare an RMP submission but has not done so, please so notify us immediately, and provide the required RMP submission as soon as possible and in any event within 30 days.

Additional information about the EPA Risk Management Program and submitting an RMP can be found on EPA's Internet website at: www.epa.gov/emergencies/content/rmp/index.htm. If you believe that you have received this letter in error because your facility has already submitted an RMP or is not required to comply with 40 CFR Part 68 pursuant to one of the reasons listed above, please contact the RMP Reporting Center at 703-227-7650, or by e-mail at RMPPRC@epacdx.net, as soon as possible. Please refer to the Notification Code Number listed at the top of this letter in any correspondence.

EPA appreciates your prompt attention to this matter. Again, if you have any questions, please contact the RMP Reporting Center via one of the methods listed above.

Sincerely,

Lawrence Stanton
Director, Office of Emergency Management